

FILED

FEB 05 2014


Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

GERALD ANDERSON,

Civ. No. 14-5005

Plaintiff,

vs.

Verified Complaint

NORTHLAND RESTAURANT GROUP,
LLC, D/B/A HARDEE'S,

Defendant.

For his Complaint, Plaintiff Gerald Anderson alleges:

Jurisdiction, Venue and General Allegations

1. This Court has jurisdiction pursuant to 42 U.S.C. §2000e-5, 28 U.S.C. §1331, and 28 U.S.C. §1367. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e).
2. On or about April 1, 2013, Plaintiff filed discrimination charges with the Equal Employment Opportunity Commission ("EEOC") and the South Dakota Division of Human Rights ("SDDHR").
3. On or about July 24, 2013, the SDDHR issued a Determination of Probable Cause.
4. On or about November 8, 2013, the EEOC adopted the findings of the SDDHR and issued a Notice of Right to Sue, which is attached as *Exhibit A* and incorporated herein by this reference.
5. Plaintiff, a male, is a resident of Rapid City, South Dakota.
6. Defendant is a Wisconsin Limited Liability Company that is authorized to conduct business in South Dakota.

7. Defendant is a Hardee's franchisee and, at all times relevant hereto, owned and operated a Hardee's Restaurant in Rapid City, South Dakota ("the Hardee's Restaurant").
8. In or about August of 2012, Plaintiff applied for a job at the Hardee's Restaurant. Plaintiff was interviewed and hired by Defendant's store manager, Danielle Dahlenburg ("Dahlenburg").
9. When she hired him, Dahlenburg told Plaintiff that if he "applied" himself and worked with her "on and off the clock," he could advance to a management position.
10. From that point forward, Dahlenburg subjected Plaintiff to unwelcome sexual advances, requests for sexual favors, and sexual touching.
11. Dahlenburg led Plaintiff to believe that his submission to her sexual advances was a condition of his employment and that he would be fired, or otherwise retaliated against, if he did not acquiesce. Based on this belief, Plaintiff succumbed to Dahlenburg's sexual advances.
12. In early October 2012, Plaintiff ended the sexual "relationship" with Dahlenburg. Approximately one week later, Plaintiff was terminated.

Count 1: Unlawful Discrimination in Violation of Title VII of the Civil Rights Act, as Amended, and the South Dakota Human Relations Act

13. Plaintiff incorporates and realleges Paragraphs 1-12 as if set forth fully herein.
14. Dahlenburg's unwelcome sexual advances toward Plaintiff were based on Plaintiff's sex.

15. Plaintiff's submission to Dahlenburg's unwelcome sexual overtures and advancements was an express or implied condition of his employment.
16. Plaintiff was terminated because he ended the "relationship" and refused to submit to further sexual overtures and advancements by Dahlenburg.
17. Defendant's stated reason for terminating Plaintiff – "insubordination" – is pretext.
18. The conduct of Defendant as stated above violates the provisions of State and Federal law, specifically 42 U.S.C §2000(e) et seq. and SDCL §20-13-1 et seq.
19. As a result of Defendant's discriminatory actions, Plaintiff has compensatory and special damages, in an amount to be determined by a jury.

WHEREFORE, Plaintiff prays for the following relief:

- A. An award of compensatory damages for lost wages, benefits, out-of-pocket expenses, humiliation and embarrassment, and punitive damages, and such other loss as determined by the jury;
- B. Attorney fees as provided by law;
- C. Costs and disbursements;
- D. Pre- and post-judgment interest on all sums awarded; and
- E. Any other relief the Court deems equitable and just.

PLAINTIFF HEREBY DEMANDS TRIAL BY JURY

Dated this 5 day of February, 2014.

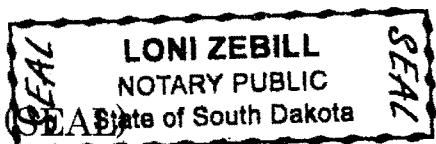
Gerald Anderson
Gerald Anderson

STATE OF SOUTH DAKOTA)
)
) ss:
COUNTY OF PENNINGTON)

Gerald Anderson, being first duly sworn, says that he is the person above named; that he has read the above and foregoing instrument; understands the contents thereof; and that the same is true of his own knowledge, information and belief.

Gerald Anderson
Gerald Anderson

Subscribed and sworn to before me this 5th day of February, 2014.



L Zebill
Notary Public
My commission expires: My Commission Expires July 1, 2019

Respectfully submitted this 5th day of February, 2014.

**BANGS, McCULLEN, BUTLER, FOYE
& SIMMONS, L.L.P.**

By: 
Sarah Baron Houy
333 West Boulevard, Ste. 400
P.O. Box 2670
Rapid City, SD 57709
Telephone: (605) 343-1040
sbaronhouy@bangsmccullen.com

ATTORNEYS FOR PLAINTIFF